

KELLOGG, HUBER, HANSEN, TODD & EVANS, P.L.L.C.

MICHAEL K. KELLOGG
PETER W. HUBER
MARK C. HANSEN
K. CHRIS TODD
MARK L. EVANS
STEVEN F. BENZ
NEIL M. GORSUCH
GEOFFREY M. KLINEBERG
REID M. FIGEL
HENK BRANDS

SUMNER SQUARE
1615 M STREET, N.W.
SUITE 400
WASHINGTON, D.C. 20036-3209

(202) 326-7900
FACSIMILE:
(202) 326-7999

October 2, 2001

SEAN A. LEV
EVAN T. LEO
ANTONIA M. APPS
MICHAEL J. GUZMAN
AARON M. PANNER
DAVID E. ROSS
SILVIJA A. STRIKIS
WILLIAM J. CONYNGHAM
RICHARD H. STERN, OF COUNSEL
SHANLON WU, OF COUNSEL

VIA HAND DELIVERY

Ms. Magalie Roman Salas
Secretary
Federal Communications Commission
Room TW-B-204
445 12th Street, S.W.
Washington, D.C. 20554

01-277
RECEIVED

OCT - 2 2001

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Re: Joint Application by BellSouth Corporation, et al. for Provision of In-Region,
InterLATA Services in Georgia and Louisiana

Dear Ms. Salas:

Accompanying this letter is BellSouth's Joint Application for Provision of In-Region,
InterLATA Services in Georgia and Louisiana.

Pursuant to the Commission's filing requirements, the following are being provided with
this letter:

- Two CD-ROM sets containing the entire Joint Application, in electronic form, redacted for public inspection. The Joint Application includes a brief in support of the Joint Application, one appendix of affidavits and supporting exhibits, and seventeen appendices containing additional supporting documentation (11 for Georgia and six for Louisiana).
- One original and one copy of the Joint Application in paper form, redacted for public inspection.
- One original in paper form of only those portions of the Joint Application that contain confidential information. This includes portions of Appendix A (Affidavits),

No. of Copies rec'd 012
List ABCDE

REDACTED – For Public Inspection

Appendix C-GA (Section 271/SGAT Proceedings), Appendix G-GA (Cost), Appendix I-GA (UNE Pricing), and Appendix K-GA (UNE DSL), Appendix D-LA (SQPM), and Appendix F-BA (Final UNE Deaveraging). A copy of this letter accompanies the confidential portions of the Joint Application. The material designated as confidential includes information relating to carriers' wholesale and retail operations in Georgia and Louisiana, and as to BellSouth's costs as well as other information containing trade secrets. None of this information is disclosed to the public, and disclosure would cause substantial harm. As such, we are requesting that these portions of the Joint Application receive confidential treatment by the Commission.

We are submitting a copy of the Joint Application, in paper form, redacted for public inspection, to Qualex (the Commission's copy contractor). In addition, we are providing the Common Carrier Bureau with 30 copies of the brief and 20 copies of Appendix A in paper form, as well as 20 CD-ROM versions of the entire Joint Application in electronic form. All those copies of Appendix A have been redacted for public inspection. Furthermore, we are submitting to the Bureau one copy in paper form of only those portions of the Joint Application that contain confidential information.

We are also submitting one copy of this cover letter and one copy of the Joint Application in paper form, redacted for public inspection, to Cynthia Lewis, U.S. Department of Justice, 1401 H Street, N.W., Suite 8000, Washington, D.C. 20530. We are also including one copy of the state record proprietary material. Finally, we are providing the Department of Justice with eight copies of the brief, eight copies of Appendix A in paper form (with eight copies of the proprietary portions), and nine CD-ROMs containing the entire Joint Application in electronic form, redacted for public inspection.

All inquiries relating to access (subject to the terms of any applicable protective order) to any confidential information submitted by BellSouth in support of the Joint Application should be addressed to:

Laura S. Brennan
Kellogg, Huber, Hansen, Todd & Evans, P.L.L.C.
1615 M Street, N.W., Suite 400
Washington, DC 20036
(202) 367-7821 (direct)
(202) 326-7999 (fax)

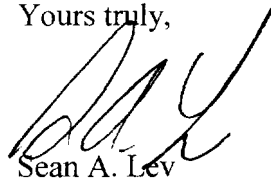
Finally, we are submitting with this cover letter one original and four copies of Southwestern Bell's Motion to Exceed Page Limits.

REDACTED – For Public Inspection

Magalie Roman Salas
October 2, 2001
Page 3

Please date-stamp the extra copy of this letter and return it to the individual delivering this package. If you have any questions, please contact me at (202) 326-7975. Thank you for your assistance in this matter.

Yours truly,

A handwritten signature in black ink, appearing to read "S. Lev", written over the printed name "Sean A. Lev".

Sean A. Lev

Encs.

REDACTED – For Public Inspection

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of

Joint Application by BellSouth Corporation,
BellSouth Telecommunications, Inc.,
and BellSouth Long Distance, Inc. for
Provision of In-Region, InterLATA Services
in Georgia and Louisiana

CC Docket No.

01-277

RECEIVED

OCT - 2 2001

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

To: The Commission

**BRIEF IN SUPPORT OF APPLICATION BY BELL SOUTH FOR PROVISION
OF IN-REGION, INTERLATA SERVICES IN GEORGIA AND LOUISIANA**

JAMES G. HARRALSON
FRED J. McCALLUM, JR.
JIM O. LLEWELLYN
LISA S. FOSHEE
4300 BellSouth Center
675 West Peachtree Street
Atlanta, GA 30375

BENNETT L. ROSS
125 Perimeter Center West
Room 376
Atlanta, GA 30346

VICTORIA K. McHENRY
365 Canal Street
Suite 3060
New Orleans, LA 70130

JONATHAN B. BANKS
1133 21st Street, N.W.
Room 900
Washington, D.C. 20036
*Counsel for BellSouth Corporation and
BellSouth Telecommunications, Inc.*

MICHAEL K. KELLOGG
SEAN A. LEV
KELLOGG, HUBER, HANSEN,
TODD & EVANS, P.L.L.C.
1615 M Street, N.W., Suite 400
Washington, D.C. 20036
(202) 326-7900

JEFFREY S. LINDER
SUZANNE YELEN
WILEY REIN & FIELDING, LLP
1776 K Street, N.W.
Washington, D.C. 20006
*Counsel for BellSouth Corporation,
BellSouth Telecommunications, Inc., and
BellSouth Long Distance, Inc.*

HARRIS R. ANTHONY
400 Perimeter Center Terrace
Suite 350
Atlanta, GA 30346
Counsel for BellSouth Long Distance, Inc.

October 2, 2001

No. of Copies rec'd
List ABCDE

014

INTRODUCTION AND EXECUTIVE SUMMARY.....	1
I. THE STATE PROCEEDINGS.....	8
A. Louisiana.....	9
B. Georgia.....	13
II. BELL SOUTH SATISFIES THE REQUIREMENTS OF TRACK A IN BOTH GEORGIA AND LOUISIANA.....	18
III. BELL SOUTH HAS ADOPTED COMPREHENSIVE AND RELIABLE STATE- APPROVED PERFORMANCE MEASUREMENTS	21
IV. BELL SOUTH SATISFIES ALL REQUIREMENTS OF THE COMPETITIVE CHECKLIST IN GEORGIA AND LOUISIANA	26
A. Checklist Item 1: Interconnection.....	26
1. Methods of Interconnection	27
2. Nondiscriminatory Access to Interconnection Trunks	30
3. Collocation.....	31
B. Checklist Item 2: Nondiscriminatory Access to Unbundled Network Elements.....	36
1. Access to UNEs Generally.....	36
2. UNE Combinations.....	37
3. Pricing of Unbundled Network Elements	40
a. Georgia.....	40
i. The GPSC Proceeding Setting Forward-Looking Rates for Individual Network Elements	42
ii. The GPSC Proceeding Setting Forward-Looking Rates for Access to UNE Combinations	46
iii. The GPSC's Proceeding To Set Forward-Looking xDSL Rates	47
b. Louisiana.....	48
4. Nondiscriminatory Access to OSS.....	51
a. Regionality.....	52

b. Independent Third-Party Testing	59
c. BellSouth's Systems	63
i. Pre-Ordering Functions.....	64
ii. Ordering and Provisioning Functions	68
iii. Maintenance and Repair Functions.....	82
iv. Manual Interfaces.....	86
v. Billing	87
d. Support for CLECs	89
e. Change Management Process	91
f. Testing Environment.....	93
C. Checklist Item 3: Poles, Ducts, Conduits and Rights-of-Way.....	95
D. Checklist Item 4: Unbundled Local Loops	98
1. Stand-Alone Loops	99
a. Hot Cuts	100
b. Stand-Alone Loop Performance	102
c. High-Speed Digital Loops	105
2. Access to Subloop Elements.....	106
3. Access to xDSL-capable Loops.....	106
4. ISDN-BRI Loop Provisioning	111
5. Line Sharing.....	112
6. Line Splitting	114
E. Checklist Item 5: Unbundled Local Transport.....	114
F. Checklist Item 6: Unbundled Local Switching.....	116
1. Line-Side and Trunk-Side Facilities, Basic Switching Functions, Shared Trunk Ports, and Unbundled Tandem Switching.....	117
2. Vertical Features	118

3. Customized Routing.....	118
4. Usage Information Necessary for Billing	120
G. Checklist Item 7: Nondiscriminatory Access to 911, E911, Directory Assistance, and Operator Call Completion Services	121
1. 911 and E911 Services.....	122
2. Directory Assistance/Operator Services	123
H. Checklist Item 8: White Pages Directory Listings for CLEC Customers.....	127
I. Checklist Item 9: Nondiscriminatory Access to Telephone Numbers.....	129
J. Checklist Item 10: Nondiscriminatory Access to Signaling and Call-Related Databases	130
K. Checklist Item 11: Number Portability	133
L. Checklist Item 12: Local Dialing Parity	138
M. Checklist Item 13: Reciprocal Compensation.....	139
N. Checklist Item 14: Resale	140
1. Retail Telecommunications Services in General	141
2. DSL Services	144
V. BELLSOUTH'S ENTRY INTO THE INTERLATA SERVICES MARKET IN GEORGIA AND LOUISIANA WILL PROMOTE COMPETITION AND FURTHER THE PUBLIC INTEREST.....	149
A. Consumers Clearly Benefit from Bell Company Entry into the In-Region, InterLATA Market.....	150
B. Performance Remedy Plan.....	158
VI. BELLSOUTH'S COMPLIANCE WITH SECTION 272	160
CONCLUSION.....	167

ATTACHMENTS

- Attachment 1: Required Statements
- Attachment 2: Certifications
- Attachment 3: Status of Federal Court Challenges Under 47 U.S.C. § 252(e)(6)
- Attachment 4: Detailed Index of Appendices (Separately Bound)

Affidavits (Appendix A)

- Tab 1. Ken L. Ainsworth
(Local Carrier Service Center)
- Tab 2. Pavan Bhalla
(BellSouth Long Distance Section 272 Compliance)
- Tab 3. Al Bolden
(Local Number Portability)
- Tab 4. D. Daonne Caldwell
(Cost Studies)
- Tab 5. Guy L. Cochran
(BST Section 272 Compliance)
- Tab 6. Douglas R. Coutee
(Access to Directory Assistance and Operator Service)
- Tab 7. Eric Fogle
(Wholesale DSL)
- Tab 8. Wayne Gray
(Collocation Processes)
- Tab 9. Alfred A. Heartley
(Network Regionality)
- Tab 10. Terrie Hudson
(Access to White Page Directory Listings)
- Tab 11. Nathaniel Jones
(BST Section 272 Compliance – Employee Training)

- Tab 12. Linda M. Kinsey
(Access to Poles, Ducts, Conduits, and Rights-of-Way)
- Tab 13. Wiley G. Latham, Jr.
(Access to xDSL Loops)
- Tab 14. Jamshed K. Madan and Michael D. Dirmeier
(Georgia Loop Rate Study)
- Tab 15. W. Keith Milner
(Interconnection; Access to Network Elements; Poles,
Ducts, Conduits, and Rights-of-Way; Loops; Transport;
Switching; Access to 911, E911, Directory Assistance, and
Operator Call Completion; White Pages Listings; Number
Administration; Access to Databases and Associated Signaling;
Number Portability; Local Dialing Parity; Reciprocal
Compensation; Resale)
- Tab 16. Edward J. Mulrow
(Statistical Methodology for Self-Effectuating Enforcement
Mechanism)
- Tab 17. John A. Ruscilli and Cynthia K. Cox
(Policy; Pricing; SGATs and Binding Legal Commitments; Local
Switching; Local Dialing Parity; Reciprocal Compensation;
Resale; Section 272 Compliance)
- Tab 18. Valerie Sapp
(Access to 911 Services)
- Tab 19. David P. Scollard
(Billing)
- Tab 20. William N. Stacy
(Access to Operations Support System)
- Tab 21. Alphonso J. Varner - Georgia and Louisiana
(Performance Measures)
- Tab 22. Victor K. Wakeling
(Local Competition and Track A)
- Tab 23. Thomas G. Williams
(Line Sharing and Line Splitting)

INTRODUCTION AND EXECUTIVE SUMMARY

Pursuant to section 271(d)(1) of the Communications Act of 1934, as amended by the Telecommunications Act of 1996 (the “1996 Act” or “Act”), 47 U.S.C. § 271(d)(1), BellSouth Corporation, BellSouth Telecommunications, Inc., and BellSouth Long Distance, Inc. (collectively, “BellSouth”) hereby seek authorization to provide interLATA services originating in the States of Georgia and Louisiana, including all services treated as such under 47 U.S.C. § 271(j).

The local telecommunications markets in Georgia and Louisiana are not just open, they are highly competitive. Even using an extremely conservative methodology, CLECs in Georgia now serve more than 798,000 access lines in BellSouth’s territory, with nearly 700,000 facilities-based lines and 100,000 resold lines. That figure represents approximately 27.5% of the business market, 8.7% of the residential market, and 16.4% of the total access lines in BellSouth’s Georgia territory.¹ The Louisiana market also exhibits vibrant local competition. BellSouth conservatively estimates that CLECs have obtained 8.9% of the lines in BellSouth’s Louisiana territory.² This Commission’s figures show even greater competition. Indeed, the Commission’s recently issued competition report concludes that, based on market share data, Louisiana is the third most competitive state in the nation.³

These real-world facts provide a crucial backdrop against which the Commission should review all issues in this case. The indisputable reality is that CLECs can and do compete very effectively in both Georgia and Louisiana today. As the Department of Justice (“DOJ”) itself has

¹ See *Wakeling Aff.* ¶ 18 (App. A, Tab V).

² See *id.* ¶ 21.

³ See Industry Analysis Div., Common Carrier Bureau, FCC, *Local Telephone Competition: Status as of December 31, 2000* (May 2001) (“*FCC Local Competition Report*”).

stressed, “[i]f actual, broad-based entry through each of the entry paths contemplated by Congress is occurring in a state, this will provide invaluable evidence supporting a strong presumption that the BOC’s markets have been opened.”⁴ That “invaluable evidence” is abundant in this case, and BellSouth is fully entitled to the “strong presumption” that the DOJ has properly identified.

The thriving local markets in Georgia and Louisiana are a result not only of BellSouth’s extensive efforts, but also of the pro-competitive commitment of the Louisiana Public Service Commission (“Louisiana PSC” or “LPSC”) and the Georgia Public Service Commission (“Georgia PSC” or “GPSC”). Both state commissions have endeavored, with substantial CLEC participation, over a period of years to ensure that competition is firmly rooted in their states.

The LPSC has relied heavily on collaborative processes, both in formal dockets and in informal settings, to resolve central issues relevant to this Application. Those collaboratives – involving at least 35 days of workshops and meetings – gave CLECs an extensive opportunity to participate in the development of BellSouth’s performance metrics *and* to resolve operational issues without litigation or delay. As an outgrowth of informal LPSC collaboratives, moreover, BellSouth now has established a region-wide “CLEC User Group” that meets frequently to address and resolve issues regarding the UNE Platform, collocation, and other matters of importance to competitors.

In addition to those proceedings, the LPSC has undertaken a searching review – again, with significant CLEC input – of BellSouth’s compliance with every aspect of section 271. As a

⁴ Evaluation of the United States Department of Justice at 43, CC Docket No. 97-121 (FCC filed May 16, 1997).

result of that review, on September 19, 2001, the LPSC adopted its Staff's detailed, 116-page recommendation that BellSouth be granted section 271 authority.

The GPSC has likewise been steadfast both in its promotion of pro-competitive policies and in its willingness to hear CLEC concerns. The GPSC established its own collaborative processes and workshops to address concerns relating to OSS, DSL, pricing, and other matters. Moreover, building on performance measures it had adopted almost four years ago, as well as additional CLEC comments and the work of the performance metric collaboratives, the GPSC established a 2,250-metric service quality measurement ("SQM") plan that gauges BellSouth's performance in all relevant areas and with an enormous amount of disaggregation. The GPSC has also established meaningful avenues for CLECs to raise complaints and obtain prompt resolution of their concerns involving performance measurements and other issues. And, like its counterpart in Louisiana, the GPSC reviewed an enormous record, including thousands of pages of CLEC filings, before it too concluded that BellSouth met all requirements for section 271 approval.

The evidence in this record confirms that both the GPSC and the LPSC got it right: BellSouth is entitled to provide long-distance service in Georgia and Louisiana. BellSouth satisfies every last specific prerequisite for section 271 approval. BellSouth has addressed each concern raised by the Commission in the *Second Louisiana Order*,⁵ and it has complied with all the requirements established by other Commission orders. BellSouth is thus entitled to approval of this application in both Georgia and Louisiana. Indeed, this is a particularly appropriate joint

⁵ Memorandum Opinion and Order, *Application of BellSouth Corporation, et al. for Provision of In-Region, InterLATA Services in Louisiana*, 13 FCC Rcd 20599 (1998).

application not only because the performance-metric proceedings in Georgia and Louisiana are intertwined, but also because, as BellSouth explains below, its systems are regional in nature.

BellSouth's fulfillment of its section 271 obligations in both states is confirmed by abundant data, as well as a comprehensive third-party OSS test performed in Georgia that, as the LPSC correctly concluded, applies in Louisiana as well. BellSouth's performance results show, among other things:

- BellSouth met 100% of its collocation benchmarks in both Georgia and Louisiana for every month from May through July.⁶
- BellSouth made *every one* of the 1,391 scheduled hot cut conversions within the 15-minute interval in Louisiana from May through July; during the same period in Georgia, BellSouth performed 6,615 of 6,673 scheduled hot cuts (more than 99%) within 15 minutes. BellSouth has averaged fewer than three minutes per conversion in both states.⁷
- BellSouth met 91% of the aggressive OSS benchmarks in both Louisiana and Georgia for at least two of the three months from May through July.⁸
- In the comprehensive independent third-party test, BellSouth met every evaluation criterion for pre-ordering, billing, maintenance and repair, capacity management, change management, and flow through. Overall, the independent tester (KPMG) found that BellSouth had not satisfied only 1.8% of the over 1,170 evaluation criteria.⁹
- BellSouth met 89% of the resale standards in Georgia for two of those three months, and 86% of those standards in Louisiana.¹⁰

⁶ *Varner Ga. Aff.* ¶ 75 (App. A, Tab U); *Varner La. Aff.* ¶ 90 (App. A, Tab U).

⁷ *Varner Ga. Aff.* ¶ 76; *Varner La. Aff.* ¶ 91.

⁸ *Varner Ga. Aff.* ¶ 75; *Varner La. Aff.* ¶ 90.

⁹ *Stacy Aff.* ¶ 442 (App. A, Tab T).

¹⁰ *Varner Ga. Aff.* ¶ 75; *Varner La. Aff.* ¶ 90.

While BellSouth is still working hard to improve its already-strong performance, these numbers, and others that BellSouth discusses in detail below, confirm what the market share evidence alone strongly indicates: the Georgia and Louisiana markets are open.

The recent actions of BellSouth's competitors further demonstrate the openness of BellSouth's markets. MCI WorldCom has not only touted Georgia as an example of a "competitive market,"¹¹ but just this June, it publicly trumpeted its commitment to full-scale entry into the Georgia residential market.¹² Lauding the "proactive role of state regulators" in Georgia, MCI announced that it would aggressively solicit its long-distance customers and "expect[s] double-digit market penetration over the next year."¹³ MCI's decision to commit significant resources to competing on a broad scale for residential customers in the Georgia market speaks volumes about the state of competition in Georgia, especially given MCI's statement that it is "working to enter local markets *in those states where the market is open to competition.*"¹⁴ Similarly, in just the last few days, Birch Telecom has announced its intent to compete for residential customers in Georgia and other BellSouth states. As Birch Telecom's press release states, its entry into those markets with an attractive, bundled package of services is

¹¹ See Declaration of Sherry Lichtenberg, attached to Comments of MCI WorldCom, Inc., R.93-04-003, *et al.* (Cal. Pub. Utils. Comm'n filed Aug. 23, 2001).

¹² See Declaration of Sherry Lichtenberg at ¶ 6, attached to Initial Comments of MCI WorldCom, Inc., Docket No. 6863-U (Ga. Pub. Serv. Comm'n filed May 31, 2001).

¹³ MCI Press Release, *MCI Launches Residential Local Phone Service in Georgia's Major Metropolitan Areas* (June 20, 2001); *MCI Seeking Local Service Customers in Georgia*, Associated Press, June 21, 2001 (internal quotation marks omitted); Michael E. Kanell, *MCI Dials into Local Phone Turf*, Atlanta J. & Const., June 21, 2001, at 1A.

¹⁴ MCI WorldCom, *MCI Local Service: Frequently Asked Questions*, at http://www.mciworld.com/for_your_home/products_services/local/faq.shtml#1a (emphasis added).

“what competition is all about, and . . . what the Telecom Act of '96 was designed to do.”¹⁵ The Commission should put much more stock in these real-world business decisions than in the self-serving arguments that MCI WorldCom and other intervenors have traditionally made in section 271 proceedings.

BellSouth also has every incentive to keep its markets open. Both the GPSC and the LPSC have approved and implemented self-executing enforcement mechanisms (“SEEMs”) that subject BellSouth to significant penalties if it fails to meet key performance measures. Those plans have all the attributes that this Commission has deemed important in prior orders. The total amount of money at risk under the Georgia plan exceeds, on a percentage of revenues basis, the amount at risk in the performance plans in New York or Texas. The Louisiana plan includes no limit on liability at all. Moreover, unlike the plans in other states, if BellSouth’s performance is persistently sub-standard, the GPSC-approved plan requires the company to cease marketing interLATA services until the problems are corrected. The LPSC plan similarly creates an expedited mechanism for that agency to recommend the same consequence to this Commission.

In sum, BellSouth has done its part. It has opened its network to competitors on a nondiscriminatory basis so that CLECs can compete in the local market. It is now time for BellSouth to be given the authority to compete in the long-distance market.

Only when BellSouth has interLATA authority can Georgia and Louisiana consumers have the benefit of full competition. As confirmed by an independent report issued in September 2001 by a well-respected non-profit consumer group, consumers can expect to save as much as \$300 million on local and long-distance service in the first year after BellSouth obtains relief in

¹⁵ Birch Telecom Press Release, *Choice in Local Phone Service Offered to Residents in the Southeast* (Sept. 25, 2001), at <http://www.birch.com/newsreleases/092501.shtml>.

Georgia.¹⁶ Similar benefits can be expected in Louisiana. To quote the chairman of that consumer group, the evidence is “clear and compelling – open entry for all competitors in the long-distance market can result in significant savings for consumers.”¹⁷ Consumers in New York, Texas, and other states have already reaped hundreds of millions of dollars in savings. There is no legal or policy basis to deny the residents of Georgia and Louisiana the same kinds of savings.

* * *

Part I of this Brief summarizes the comprehensive proceedings that the Louisiana and Georgia PSCs have undertaken, with extensive CLEC participation, to ensure BellSouth’s adherence to the pro-competitive requirements of the 1996 Act. Part II demonstrates that BellSouth easily satisfies Track A in both states. Part III introduces the comprehensive set of performance measurements on which BellSouth relies to show that it satisfies the competitive checklist in Georgia and Louisiana; that section also discusses the extensive safeguards in place (including multiple audits) to ensure that the data provided by BellSouth are reliable. Part IV shows in detail that BellSouth does, in fact, satisfy the checklist by providing competing carriers in Georgia and Louisiana with interconnection and network access in accordance with statutory and regulatory requirements. Part V demonstrates that approving BellSouth’s Application is consistent with the public interest. Finally, Part VI confirms that BellSouth will abide by the

¹⁶ Telecommunications Research & Action Center, *Projected Residential Consumer Telephone Savings 2* (Sept. 6, 2001), at <http://trac.policy.net/relatives/17340.pdf>.

¹⁷ *TRAC Estimates Consumers in Pennsylvania Will Save at Least \$128 Million a Year on Local and Long-Distance Calling*, U.S. Newswire, Sept. 6, 2001.

safeguards of section 272.¹⁸ This Brief and its supporting affidavits are available in electronic form at <http://www.bellsouthcorp.com/policy/271>.¹⁹

I. THE STATE PROCEEDINGS

This Commission has long encouraged states to play a significant role in the section 271 process. Where a state has “conducted an exhaustive and rigorous investigation” of checklist compliance, the Commission grants the state’s recommendation “substantial weight.” *Texas Order*²⁰ ¶ 51. The Commission also “strongly encourage[s]” state commissions to use collaborative processes to develop performance measures: “If [a] state commission has made [its] determination[s]” as to appropriate performance standards in a “rigorous collaborative proceeding . . . , we are much more likely to find that they are reasonable and appropriate measures of parity.” *Id.* ¶¶ 54, 56.

In this case, the state commissions in both Georgia and Louisiana have conducted exceptionally rigorous investigations of section 271 compliance, and they have adopted comprehensive sets of performance measures crafted through collaborative proceedings. Their

¹⁸ BellSouth intends to offer in-region, interLATA services in Georgia and Louisiana through BellSouth Long Distance, Inc. (“BSLD”), which will operate in accordance with the requirements of section 272. However, all references to BellSouth Long Distance, Inc., should be understood to encompass any affiliate of BellSouth Telecommunications, Inc. (or its successors or assigns that provide wireline telephone exchange service) that operates in a manner consistent with this Application’s representations regarding the future activities of BSLD. *See Bhalla Aff.* ¶ 9 (App. A, Tab B). BellSouth will file an international section 214 application so that its affiliate can originate international calls.

¹⁹ The Anti-Drug Abuse Act certifications required under 47 C.F.R. § 1.2002 are provided as Attachment 2 to this Brief.

²⁰ Memorandum Opinion and Order, *Application by SBC Communications Inc., et al., Pursuant to Section 271 of the Telecommunications Act of 1996 To Provide In-Region, InterLATA Services in Texas*, 15 FCC Rcd 18354 (2000).

determinations are thus entitled to the full measure of respect that this Commission's orders indicate is appropriate in such instances.

A. Louisiana

Since this Commission's October 1998 *Second Louisiana Order*, the Louisiana PSC has expended a truly extraordinary amount of time and effort to ensure that BellSouth's local market is open *and* that CLECs' concerns are fully aired and addressed. In addition to giving CLECs significant opportunities to comment and to participate in formal hearings and proceedings, the LPSC has relied heavily on many days of workshops and collaborative sessions to resolve issues consensually and to ensure that CLECs have a fair opportunity to compete in Louisiana.

This reliance on collaboratives has been particularly significant in the development of performance measurements, analogs, benchmarks, and remedy plans. In August 1998, when the LPSC adopted its Staff's recommendation (in Docket No. U-22252(C)), as to proposed service quality measurements ("SQMs"),²¹ it also "ordered further workshops and technical conferences in which BellSouth, the CLEC community, and the Staff could work in a collaborative environment to resolve outstanding issues." *Staff Final Recommendation* at 4, *Consideration and Review of BellSouth Telecommunications, Inc.'s Preapplication Compliance with Section 271 of the Telecommunications Act of 1996*, Docket No. U-22252(E) (La. Pub. Serv. Comm'n Aug. 31, 2001) ("*LPSC Staff Final Recommendation*") (App. C – La., Tab 22) (recounting the LPSC proceedings).

²¹ General Order, *BellSouth Telecommunications, Inc. Service Quality Performance Measurements*, Docket No. U-22252(C) (La. Pub. Serv. Comm'n Aug. 19, 1998) (App. D – La., Tab 25); Louisiana Staff Final Recommendation, *BellSouth Telecommunications, Inc. Service Quality Performance Measurements*, Docket No. U-22252(C) (La. Pub. Serv. Comm'n) (App. D – La., Tab 24).

Those workshops and collaboratives addressed (1) “clarification and refinement of the [SQMs] adopted by the LPSC”; (2) “a statistical methodology to measure [BellSouth’s] performance”; (3) “the need for retail analogs and benchmarks to establish objective standards”; and (4) the “need for a self-executing enforcement mechanism (SEEM) to provide meaningful incentives to BellSouth to provide appropriate performance, and to ensure swift repercussions in the event it failed to do so.” *Id.*

The LPSC’s Staff and consultant then held 26 days of workshops, which resulted in “significant progress” in developing performance measures, benchmarks, and the SEEM plan. *Id.* at 5; *see also Varner La. Aff.* ¶¶ 14-15. Among many other things, the workshops resulted in near consensus on provisioning intervals for collocation; progress on numerous benchmarks and retail analogs; the development of the statistical methodology for BellSouth’s SEEM plan (which was developed by BellSouth and AT&T statisticians); consensus on business rules for calculating missed installation appointments and other metrics; and BellSouth’s agreement to turn over “raw” performance data to CLECs so that they could validate performance results. *See id.*

Based on that progress, and the LPSC Staff’s recommendation,²² on May 14, 2001, the LPSC adopted a revised SQM plan that included a host of new measures, addressed disaggregation for xDSL, created aggressive retail analogs and benchmarks for BellSouth’s OSS performance, and established a comprehensive SEEM plan. *See General Order at 5, BellSouth Telecommunications, Inc. Service Quality Performance Measurements*, Docket No. U-22252(C) (La. Pub. Serv. Comm’n May 14, 2001) (“*LPSC May 14 Performance Measurements Order*”)

²² Initial Staff Recommendation and Final Notice for Comments, *BellSouth Telecommunications, Inc. Service Quality Performance Measurements*, Docket No. U-22252(C)

(App. D – La., Tab 148). That order adopted the LPSC Staff’s detailed, 227-page recommendation as to all remaining issues relating to statistical methodology, enforcement, measures and disaggregation, auditing, and compliance filings. *See id.* That LPSC order and the underlying Staff recommendation demonstrate both the significant oversight that the LPSC has undertaken as to performance measurements and the insights that it gained from the extensive collaborative meetings that were held under its auspices. Moreover, the LPSC has made it clear that its oversight will continue. The LPSC order also requires a six-month review of the performance measures and the remedy plan, and that review is already underway.

Nor was the SQM proceeding the only one in which the LPSC relied on CLEC collaboratives. In October 2000, LPSC Commissioner Irma Muse Dixon directed the LPSC Staff to arrange a series of collaboratives designed both to inform the LPSC about current CLEC and ILEC procedures and services and to “develop[] and implement[] solutions to the problems that are experienced by the parties.” *LPSC Staff Final Recommendation* at 6. The LPSC specifically invited CLECs to suggest issues to be raised in these collaboratives, and 15 CLECS, including AT&T, MCI WorldCom, Covad, NewSouth, and KMC, submitted comments. *Id.* The LPSC conducted a pre-collaborative meeting to establish a format for future meetings and to outline a proposed agenda. *See id.* at 7.

BellSouth and more than a dozen CLECs, as well as Commissioner Dixon and the LPSC Staff, then participated in nine days of collaborative workshops, covering issues such as customer conversions, trunking, provisioning, maintenance and repair, collocation, OSS, order processing, CLEC training, and access to information on BellSouth websites. *Id.* The workshops were attended by BellSouth subject matter experts (“SMEs”) and included a tour of a

(La. Pub. Serv. Comm’n June 29, 2000) (App. D – La., Tab 126).

BellSouth central office. *Id.* Lists of unresolved issues (or “action items”) were created at each workshop, and those items were monitored until they were resolved. *Id.* at 7-8. The LPSC then invited CLECs to raise any action items that remained unresolved in a complaint with the LPSC. No CLEC has filed such a complaint. *See id.* at 8; *see also Stacy Aff.* ¶¶ 653-656.

As the LPSC’s Staff has explained, these collaborative workshops were a “huge success.” *LPSC Staff Final Recommendation* at 9. They led to significant “process improvements” and the creation of a permanent region-wide “CLEC User Group” that has already met to discuss issues relating to, among other things, collocation and the UNE-P. *LPSC Staff Final Recommendation* at 8-9. Moreover, because BellSouth’s processes are region-wide, “all process improvements made as a result of the [LPSC] workshops have been a benefit to all CLECs operating within the BellSouth region.” *Id.* at 9.

When it came time to assess BellSouth’s current compliance with section 271, the LPSC again solicited CLEC involvement. In response to BellSouth’s April 20, 2001, filing of a Notice of Intent to file a federal section 271 application, the LPSC opened a new subdocket (No. U-22252(E)) and solicited comments by CLECs as to BellSouth’s initial filing, again as to BellSouth’s performance data, and yet again as to the LPSC Staff’s initial recommendation of approval.

Based on all that information, the LPSC Staff issued a 116-page report that demonstrates, through a detailed and independent analysis, that BellSouth has met every last requirement for section 271 relief. *See LPSC Staff Final Recommendation.* On September 19, 2001, the LPSC

voted 5-0 to adopt that Staff recommendation, and “endorse[d] the application of BellSouth to the FCC . . . to provide interLATA service originating within the State of Louisiana.”²³

At the same time that the LPSC took that action, it also adopted an order (issued in Docket No. U-24714(A)) establishing a new set of TELRIC-compliant rates. As BellSouth explains further below under Checklist Item 2, those rates and the LPSC’s decision conform to this Commission’s rules in all respects. The new rates, moreover, are generally below the ones that the DOJ concluded in the *Second Louisiana* proceeding were “[i]n most respects . . . consistent with . . . pro-competitive pricing principles,”²⁴ and they render each of the three pricing issues that the DOJ raised in that prior proceeding. *See Caldwell Aff.* ¶¶ 128-129 (App. A, Tab D).

B. Georgia

The Georgia PSC has been equally aggressive in applying the pro-competitive policies of the 1996 Act. It has conducted a series of “critically important proceedings” to ensure BellSouth’s compliance with section 271. *See Staff Recommendation* at 1, Docket No. 6863-U (Ga. Pub. Serv. Comm’n Sept. 27, 2001) (“*GPSC Staff Recommendation*”) (App. L – Ga., Tab 5). Moreover, in the course of those proceedings, the GPSC has repeatedly solicited significant CLEC input through workshops and collaboratives, expedited proceedings to resolve CLEC concerns, and extensive CLEC participation in formal hearings.

²³ Order at 5, *Consideration and Review of BellSouth Telecommunications, Inc.’s Preapplication Compliance with Section 271 of the Telecommunications Act of 1996*, Docket No. U-22252(E) (La. Pub. Serv. Comm’n Sept. 21, 2001) (App. C – La., Tab 23).

²⁴ Evaluation of the United States Department of Justice at 19 n.37, *Second Application by BellSouth Corp., et al. for Provision of In-Region, InterLATA Services in Louisiana*, CC Docket No. 98-121 (FCC filed Aug. 19, 1998).

For example, in October 1997 the GPSC opened a docket (No. 8354-U) to address CLEC access to BellSouth's OSS. Technical workshops were held in December 1997 in order to identify and discuss CLEC concerns about BellSouth's electronic interfaces. *See* Notice of Technical Workshop at 1, *Investigation into Development of Electronic Interfaces for BellSouth's Operational Support Systems*, Docket 8354-U (Ga. Pub. Serv. Comm'n Nov. 14, 1997) (App. F – Ga., Tab 1). In connection with these workshops and after subsequent hearings, the GPSC adopted its Staff's recommendation requiring BellSouth to implement approximately 100 OSS enhancements in order to "aid CLEC entry into the local market." *See* Order Adopting OSS Report at 5-6, 19, *Investigation into Development of Electronic Interfaces for BellSouth's Operational Support Systems*, Docket 8354-U (Ga. Pub. Serv. Comm'n June 4, 1998) (App. F – Ga., Tab 12). The GPSC also directed BellSouth and the CLECs to file joint status reports outlining the steps BellSouth had taken to implement these OSS enhancements. *Id.* Docket 8354-U eventually culminated in GPSC orders (on May 20, 1999,²⁵ and January 12, 2000²⁶) requiring BellSouth to have an independent third party (KPMG) conduct comprehensive tests of its OSS.

In establishing its comprehensive SQM plan, the GPSC relied on its own proceedings and built on what the Louisiana PSC accomplished through its extensive collaboratives, workshops, and hearings. The GPSC first opened a docket (No. 7892-U) seeking to establish performance measurements for BellSouth in October 1997. The GPSC then held two days of hearings and, on

²⁵ Order on Petition for Third Party Testing, *Investigation into Development of Electronic Interfaces for BellSouth's Operational Support Systems*, Docket No. 8354-U (Ga. Pub. Serv. Comm'n May 20, 1999) (App. F – Ga., Tab 27).

²⁶ Order, *Investigation into Development of Electronic Interfaces for BellSouth's Operational Support Systems; Consideration of AT&T's Motion for Reconsideration of the*

December 30, 1997, decided to establish 19 measurements that BellSouth was required to report. *See* Order at 3, 12, *Performance Measurements for Telecommunications Interconnection, Unbundling and Resale*, Docket No. 7892-U (Ga. Pub. Serv. Comm’n docketed May 6, 1998) (App. D – Ga., Tab 2). That same order, moreover, established a dispute resolution process so that CLECs could raise concerns about performance measurements and data. That process involves informal efforts to resolve issues between the parties in the first instance and then an expedited GPSC mediation if those efforts do not succeed. *See id.* at 27. As of this date, no CLEC has availed itself of this process. *See Varner Ga. Aff.* ¶ 11.

In June 2000, the GPSC established a second phase of its proceeding. The GPSC conducted four days of hearings in which numerous CLECs intervened and presented testimony. The GPSC also received extensive proposals from BellSouth and the “CLEC Coalition” (a group that included AT&T, WorldCom, Covad, MediaOne, Z-Tel, and other carriers). *See Varner Ga. Aff.* ¶ 12. Stressing that a “well-defined, effective and meaningful set of performance measurements is essential in order to provide the Commission with the information necessary to assess BellSouth’s service to CLECs,” the GPSC then issued an order on January 16, 2001 that included comprehensive measures designed to “monitor all areas of support.” Order at 2, *Performance Measurements for Telecommunications Interconnection, Unbundling and Resale*, Docket No. 7892-U (Ga. Pub. Serv. Comm’n Jan. 16, 2001) (App. D – Ga., Tab 10) (“*GPSC Performance Measurements Order*”). Where that order adopted BellSouth measurements, those were based on the collaborative work in Louisiana, as well as input from the GPSC’s Staff and KPMG Consulting, Inc. (“KPMG”) (the independent auditor of BellSouth’s measurements); the

Commission’s Order for Third Party Testing, Docket No. 8354-U (Ga. Pub. Serv. Comm’n Jan. 12, 2000) (App. F – Ga., Tab 52).

GPSC also adopted a number of CLEC-suggested measures and benchmarks. *See Varner Ga. Aff.* ¶ 14. In sum, after conducting proceedings that were “open to participation by all parties,” the GPSC “has adopted a broad range of performance measures and standards and initiated a Performance Assurance Plan designed to create a financial incentive for both[] pre-entry and post-entry compliance with section 271.” *GPSC Staff Recommendation* at 1.

The GPSC also received significant CLEC input, both through collaboratives and other proceedings, in resolving other important issues. For instance, the GPSC held a lengthy set of collaborative meetings and workshops in Docket No. 11900-U to resolve xDSL and line-sharing issues, including pricing. *See Ruscilli/Cox Joint Aff.*, Exh. JAR/CKC-1 (App. A, Tab Q). As a result of that collaborative process, in its June 11, 2001 order in that docket, the GPSC was able to approve a settlement executed by BellSouth and various CLECs resolving many significant issues.²⁷ The proceedings in these GPSC dockets and others are discussed in greater detail in Exhibit JAR/CKC-1 to the joint affidavit of John Ruscilli and Cynthia Cox.

The GPSC’s assessment of BellSouth’s compliance with the requirements of section 271 involved similar thoroughness and CLEC participation. The GPSC began its review of that issue in September 1996 with the establishment of Docket No. 6863-U. The GPSC issued a series of questions to BellSouth, to which BellSouth responded in early January 1997. The GPSC then held 18 days of hearings in March, July, and August 1997, generating a transcript that is 5,900 pages in length.

On October 15, 1998, the GPSC Staff entered its 160-page Report and Opinion, the purpose of which was to “assess[] the compliance of BellSouth Telecommunications, Inc. . . .

²⁷ Order, *Investigation of BellSouth Telecommunications, Inc.’s Provisions of Unbundled Network Elements for the xDSL Service Provider*, Docket No. 11900-U (Ga. Pub. Serv. Comm’n